

An act to amend Section 10295.6 of the Public Contract Code, to amend Section 25792 of the Public Resources Code, to amend Sections 365.1, 380, 454.51, 454.52, 454.53, 712, 712.1, and 712.8 of, and to add Section 913.12 to, the Public Utilities Code, and to amend Sections 80710 and 80720 of, to add Sections 80713 and 80714 to, to add Chapter 5 (commencing with Section 80740) to Division 29 of, and to add Division 29.5 (commencing with Section 80800) to, the Water Code, relating to energy, and making an appropriation therefor, to take effect immediately, bill related to the budget.

SECURED
COPY



THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 10295.6 of the Public Contract Code is amended to read:

10295.6. Sections 10295 and 10297 do not apply to any contract entered into by the Department of Water Resources under Part 3 (commencing with Section 11100) of Division ~~6 or 6~~, Chapter 8 (commencing with Section 12930) of Part 6 of Division ~~6 6~~, Division 29 (commencing with Section 80700), or Division 29.5 (commencing with Section 80800), of the Water Code for the acquisition, sale, or transmission of power, or for services to facilitate those activities.

SEC. 2. Section 25792 of the Public Resources Code is amended to read:

25792. (a) The Demand Side Grid Support Program is hereby created. The commission shall implement and administer the program to incentivize dispatchable customer load reduction and backup generation operation as on-call emergency supply and load reduction for the state's electrical grid during extreme events.

(b) The commission shall allocate moneys to develop a new statewide program that provides incentives to reduce customer net load during extreme events with upfront capacity commitments and for per-unit reductions in net load. Eligible recipients may include all energy customers in the state, except those enrolled in demand response or emergency load reduction programs offered by entities under the jurisdiction of the Public Utilities Commission. The commission, in consultation with the Public Utilities Commission, may adopt additional participation requirements or limitations. Payments shall be made to any of the following:

- (1) Participating individual entities.
- (2) Participating aggregators of multiple energy customers.
- (3) Participating local publicly owned electric utilities and load-serving entities.

~~(c) Entities with generation or load reduction assets that are incentivized pursuant to Article 2 (commencing with Section 25791) shall participate in the program under this article.~~

~~(d)~~

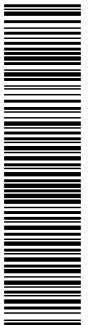
(c) Participants shall provide load reduction or backup generation service, or both, in response to a dispatch by an applicable California balancing authority of a California balancing authority area in which participants are located during extreme events.

~~(e)~~

(d) The commission, in consultation with California balancing authorities and the state board, shall adopt guidelines to determine when to implement the program, including which resources are dispatched first to minimize local pollution and emissions of greenhouse gases. The dispatch order of resources in the program shall follow a loading order that prioritizes, to the maximum extent feasible to ensure electricity reliability, cost-effective demand response and efficiency resources, then feasible, cost-effective renewable and zero-emission resources, and then feasible, cost-effective conventional resources. The guidelines shall also consider the anticipated useful life of the resources in relation to the state's climate and air quality requirements.

~~(f)~~

(e) The state board, in consultation with the commission, shall develop a plan, including determining the funding amounts allocated after the dispatch of resources participating in the program, to mitigate impacts from these resources.



~~(g) All energy produced as a result of the program shall be settled at a relevant reference energy price derived either through the Independent System Operator market tariff or similar mechanism established and documented for an applicable California balancing authority area.~~

SEC. 3. Section 365.1 of the Public Utilities Code is amended to read:

365.1. (a) Except as expressly authorized by this section, and subject to the limitations in subdivisions (b) and (c), the right of retail end-use customers pursuant to this chapter to acquire service from other providers is suspended until the Legislature, by statute, lifts the suspension or otherwise authorizes direct transactions. For purposes of this section, "other provider" means any person, corporation, or other entity that is authorized to provide electric service within the service territory of an electrical corporation pursuant to this chapter, and includes an aggregator, broker, or marketer, as defined in Section 331, and an electric service provider, as defined in Section 218.3. "Other provider" does not include a community choice aggregator, as defined in Section 331.1, and the limitations in this section do not apply to the sale of electricity by "other providers" to a community choice aggregator for resale to community choice aggregation electricity consumers pursuant to Section 366.2.

(b) The commission shall ~~allow~~ authorize individual retail nonresidential end-use customers to acquire electric service from other providers in each electrical corporation's distribution service territory, up to a maximum allowable total kilowatthours annual limit. The maximum allowable annual limit shall be established by the commission for each electrical corporation at the maximum total kilowatthours supplied by all other providers to distribution customers of that electrical corporation during any sequential 12-month period between April 1, 1998, and ~~the effective date of this section, October 11, 2009.~~ Within six months of ~~the effective date of this section, or by July 1, 2010, whichever is sooner, October 11, 2009,~~ the commission shall adopt and implement a reopening schedule that commences immediately and will phase in the allowable amount of increased kilowatthours over a period of not less than three years, and not more than five years, raising the allowable limit of kilowatthours supplied by other providers in each electrical corporation's distribution service territory from the number of kilowatthours provided by other providers as of ~~the effective date of this section, October 11, 2009,~~ to the maximum allowable annual limit for that electrical corporation's distribution service territory. The commission shall review and, if appropriate, modify its currently effective rules governing direct transactions, but that review shall not delay the start of the phase-in schedule.

(c) Once the commission has authorized additional direct transactions pursuant to subdivision (b), it shall do both of the following:

(1) Ensure that other providers are subject to the same requirements that ~~are applicable apply~~ apply to the state's three largest electrical corporations under any programs or rules adopted by the commission to implement the resource adequacy provisions of Section 380, the renewables portfolio standard provisions of Article 16 (commencing with Section 399.11), ~~and the requirements for the electricity sector adopted by the State Air Resources Board pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).~~ Code), and the requirements of the integrated resource planning process as specified in Sections 454.5 to 454.6, inclusive. This requirement applies notwithstanding any prior decision of the commission to the contrary.



(2) (A) Ensure that, in the event that the commission authorizes, in the situation of a contract with a third party, or orders, in the situation of utility-owned generation, an electrical corporation to obtain generation resources that the commission determines are needed to meet system or local area reliability needs for the benefit of all customers in the electrical corporation's distribution service territory, the net capacity costs of those generation resources are allocated on a fully nonbypassable basis consistent with departing load provisions as determined by the commission, to all of the following:

- (i) Bundled service customers of the electrical corporation.
- (ii) Customers that purchase electricity through a direct transaction with other providers.
- (iii) Customers of community choice aggregators.

(B) If the commission authorizes or orders an electrical corporation to obtain generation resources pursuant to subparagraph (A), the commission shall ensure that those resources meet a system or local reliability need in a manner that benefits all customers of the electrical corporation. The commission shall allocate the costs of those generation resources to ratepayers in a manner that is fair and equitable to all customers, whether they receive electric service from the electrical corporation, a community choice aggregator, or an electric service provider.

(C) The resource adequacy benefits of generation resources acquired by an electrical corporation pursuant to subparagraph (A) shall be allocated to all customers who pay their net capacity costs. Net capacity costs shall be determined by subtracting the energy and ancillary services value of the resource from the total costs paid by the electrical corporation pursuant to a contract with a third party or the annual revenue requirement for the resource if the electrical corporation directly owns the resource. An energy auction shall not be required as a condition for applying this allocation, but may be allowed as a means to establish the energy and ancillary services value of the resource for purposes of determining the net costs of capacity to be recovered from customers pursuant to this paragraph, and the allocation of the net capacity costs of contracts with third parties shall be allowed for the terms of those contracts.

(D) It is the intent of the Legislature, in enacting this paragraph, to provide additional guidance to the commission with respect to the implementation of subdivision (g) of Section 380, ~~as well as~~ and to ensure that the customers to whom the net costs and benefits of capacity are allocated are not required to pay for the cost of electricity they do not consume.

(d) (1) If the commission approves a centralized resource adequacy mechanism pursuant to subdivisions (h) and (i) of Section 380, upon the implementation of the centralized resource adequacy mechanism the requirements of paragraph (2) of subdivision (c) shall be suspended. If the commission later orders that electrical corporations cease procuring capacity through a centralized resource adequacy mechanism, the requirements of paragraph (2) of subdivision (c) shall again apply.

(2) If the use of a centralized resource adequacy mechanism is authorized by the commission and has been implemented as set forth in paragraph (1), the net capacity costs of generation resources that the commission determines are required to meet urgent system or urgent local grid reliability needs, and that the commission authorizes to be procured outside of the Section 380 or Section 454.5 processes, shall be recovered according to the provisions of paragraph (2) of subdivision (c).



(3) This subdivision does not supplant the resource adequacy requirements of Section 380 or the resource procurement procedures established in Section 454.5.

(e) On or before June 1, 2019, the commission shall issue an order regarding direct transactions that provides as follows:

(1) Increase the maximum allowable total kilowatthours annual limit by 4,000 gigawatthours and apportion that increase among the service territories of the electrical corporations.

(2) All residential and nonresidential customer accounts that are on direct access as of January 1, 2019, remain authorized to participate in direct transactions.

~~(f) (1) On or before June 1, 2020, the commission shall provide recommendations to the Legislature on implementing a further direct transactions reopening schedule, including, but not limited to, the phase-in period over which the further direct transactions shall occur for all remaining nonresidential customer accounts in each electrical corporation's service territory.~~

~~(2) In developing the recommendations pursuant to paragraph (1), the commission shall find all of the following:~~

~~(A) The recommendations are consistent with the state's greenhouse gas emission reduction goals.~~

~~(B) The recommendations do not increase emissions of criteria air pollutants and toxic air contaminants.~~

~~(C) The recommendations ensure electrical system reliability.~~

~~(D) The recommendations do not cause undue shifting of costs to bundled service customers of an electrical corporation or to direct transaction customers.~~

~~(3) (A) The recommendations shall be provided in compliance with Section 9795 of the Government Code.~~

~~(B) Pursuant to Section 10231.5 of the Government Code, this subdivision is inoperative on June 1, 2024.~~

SEC. 4. Section 380 of the Public Utilities Code is amended to read:

380. (a) The commission, in consultation with the Independent System Operator, shall establish resource adequacy requirements for all load-serving entities.

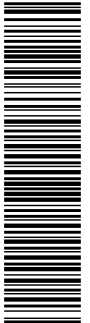
(b) In establishing resource adequacy requirements, the commission shall ensure the reliability of electrical service in California while advancing, to the extent possible, the state's goals for clean energy, reducing air pollution, and reducing emissions of greenhouse gases. The resource adequacy program shall achieve all of the following objectives:

(1) Facilitate development of new generating, nongenerating, and hybrid capacity and retention of existing generating, nongenerating, and hybrid capacity that is economical and needed ~~needed for reliability and to achieve the state policy specified in Section 454.53.~~

(2) Establish new, or maintain existing, demand response products and tariffs that facilitate the economical ~~economic~~ dispatch and use of demand response that can either meet or reduce an electrical corporation's resource adequacy requirements, as determined by the commission.

(3) Equitably allocate the cost of generating capacity and demand response in a manner that prevents the shifting of costs between customer classes.

(4) Minimize enforcement requirements and costs.



(5) Maximize the ability of community choice aggregators to determine the generation resources used to serve their customers.

(c) Each load-serving entity shall maintain physical generating capacity and electrical demand response adequate to meet its load requirements, including, but not limited to, peak demand and planning and operating reserves. The generating capacity or electrical demand response shall be deliverable to locations and at times as may be necessary to maintain electrical service system reliability, local area reliability, and flexibility.

(d) Each load-serving entity shall, at a minimum, meet the most recent minimum planning reserve and reliability criteria approved by the board of directors of the Western Systems Coordinating Council or the Western Electricity Coordinating Council.

(e) The commission shall implement and enforce the resource adequacy requirements established in accordance with this section in a nondiscriminatory manner. Each load-serving entity shall be subject to the same requirements for resource adequacy and adequacy, the renewables portfolio standard program, and the integrated resource planning process pursuant to Section 454.52 that are applicable apply to electrical corporations pursuant to this section, or otherwise required by law, or by order or decision of the commission. The commission shall exercise its enforcement powers to ensure compliance by all load-serving entities.

(f) (1) The commission shall require sufficient information, including, but not limited to, anticipated load, actual load, and measures undertaken by a load-serving entity to ensure resource adequacy, to be reported to enable the commission to determine compliance with the resource adequacy requirements established by the commission.

(2) The commission shall calculate and publish annually on its internet website, in a new report or as part of another report, the percentage of each load-serving entity's local and system resource adequacy requirements from the previous calendar year that was met with capacity from eligible renewable energy resources pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11)), other zero-carbon resources, including large hydroelectric and nuclear resources, or energy storage resources. In determining the percentage of each load-serving entity's resource adequacy requirements, the commission shall include all directly owned or contracted resources and each load-serving entity's allocation of any centrally procured resources or allocation of resources pursuant to any other mechanism that involves an assignment or allocation of resources purchased or owned by a single buyer, and shall exclude any share of a load-serving entity's resources that were allocated to another load-serving entity.

(g) An electrical corporation's costs of meeting or reducing resource adequacy requirements, including, but not limited to, the costs associated with system reliability, local area reliability, and flexibility, flexible resource adequacy, renewable integration, or resource diversity portfolio requirements, that are determined to be reasonable by the commission, or are otherwise recoverable under a procurement plan approved by the commission pursuant to Section 454.5, shall be fully recoverable from those customers on whose behalf the costs are incurred, as determined by the commission, at the time the commitment to incur the cost is made, on a fully nonbypassable basis, as determined by the commission. The commission shall exclude any amounts authorized to be recovered pursuant to Section 366.2 when authorizing the amount of costs to be recovered from customers of a community choice aggregator or from



customers that purchase electricity through a direct transaction pursuant to this subdivision.

(h) The commission shall determine and authorize the most efficient and equitable means for achieving all of the following:

(1) Meeting the objectives of this section.
(2) Ensuring that investment is made in new generating ~~capacity~~ capacity, including the capacity needed to achieve the state policy specified in Section 454.53.

(3) Ensuring that existing generating capacity that is economic is ~~retained~~, retained, including the capacity needed to maintain reliability while achieving the state policy specified in Section 454.53.

(4) Ensuring that the cost of generating capacity and demand response is allocated equitably.

(5) Ensuring that community choice aggregators can determine the generation resources used to serve their customers.

(6) Ensuring that investments are made in new and existing demand response resources that are cost effective and help to achieve electrical grid reliability and the state's goals for reducing emissions of greenhouse gases.

(7) Minimizing the need for backstop procurement by the Independent System Operator.

(i) In making the determination pursuant to subdivision (h), the commission may consider a centralized resource adequacy mechanism among other options.

(j) The commission shall ensure appropriate valuation of both supply and load modifying demand response resources. The commission, in an existing or new proceeding, shall establish a mechanism to value load modifying demand response resources, including, but not limited to, the ability of demand response resources to help meet distribution needs and transmission system needs and to help reduce a load-serving entity's resource adequacy obligation pursuant to this section. In determining this value, the commission shall consider how these resources further the state's electrical grid reliability and the state's goals for reducing emissions of greenhouse gases. The commission, Energy Commission, and Independent System Operator shall jointly ensure that changes in demand caused by load modifying demand response are expeditiously and comprehensively reflected in the Energy Commission's Integrated Energy Policy Report ~~forecast~~, forecast and in planning proceedings and associated analyses, and shall encourage reflection of these changes in demand in the operation of the grid.

(k) For purposes of this section, "load-serving entity" means an electrical corporation, electric service provider, or community choice aggregator. "Load-serving entity" does not include any of the following:

(1) A local publicly owned electric utility.
(2) The State Water Resources Development System commonly known as the State Water Project.

(3) Customer generation located on the customer's site or providing electric service through arrangements authorized by Section 218, if the customer generation, or the load it serves, meets one of the following criteria:

(A) It takes standby service from the electrical corporation on a commission-approved rate schedule that provides for adequate backup planning and operating reserves for the standby customer class.



(B) It is not physically interconnected to the electrical transmission or distribution grid, so that, if the customer generation fails, backup electricity is not supplied from the electrical grid.

(C) There is physical assurance that the load served by the customer generation will be curtailed concurrently and commensurately with an outage of the customer generation.

SEC. 5. Section 454.51 of the Public Utilities Code is amended to read:

454.51. The commission shall do all of the following:

(a) Identify a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy and resource diversity in a cost-effective manner. The portfolio shall be used by the commission to establish integrated resource planning-based procurement requirements that rely upon on zero carbon-emitting resources to the maximum extent reasonable and be designed to achieve the state policy specified in Section 454.53 and any statewide greenhouse gas emissions limit established pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code) or any successor legislation.

(b) Direct each electrical corporation to include, as part of its proposed procurement plan, a strategy for procuring best-fit and least-cost resources to satisfy the portfolio needs identified by the commission pursuant to subdivision (a).

(c) Ensure that the net costs of any incremental renewable energy integration or diversification resources procured by an ~~electrical corporation~~ corporation, or the Department of Water Resources, to satisfy the need identified in subdivision (a) are allocated on a fully nonbypassable basis consistent with the treatment of costs identified in paragraph (2) of subdivision (c) of Section 365.1.

(d) Permit community choice aggregators to submit proposals for satisfying their portion of the renewable integration need identified in subdivision (a). If the commission finds this need is best met through long-term procurement commitments for resources, community choice aggregators shall also be required to make long-term commitments for resources. The commission shall approve proposals pursuant to this subdivision if it finds all of the following:

(1) The resources proposed by a community choice aggregator will provide equivalent integration of renewable energy.

(2) The resources proposed by a community choice aggregator will promote the efficient achievement of state energy policy objectives, including reductions in greenhouse gas emissions.

(3) Bundled customers of an electrical corporation will be indifferent from the approval of the community choice aggregator proposals.

(e) Ensure that all costs resulting from nonperformance to satisfy the need identified in subdivision (a) or (d), as applicable, shall be borne by the ~~electrical corporation or community choice aggregator~~ load-serving entity, as defined in Section 380, that failed to perform.

SEC. 6. Section 454.52 of the Public Utilities Code is amended to read:

454.52. (a) (1) Beginning in 2017, and to be updated regularly thereafter, the commission shall adopt a process for each load-serving entity, as defined in Section 380, to file an integrated resource plan, and a schedule for periodic updates to the plan, and shall ensure that load-serving entities do all of the following:



(A) Meet the greenhouse gas emissions reduction targets established by the State Air Resources Board, in coordination with the commission and the Energy Commission, for the electricity sector and each load-serving entity that reflect the electricity sector's percentage in achieving the economywide greenhouse gas emissions reductions pursuant to Section 38566 of the Health and Safety Code.

(B) Procure at least 60 percent eligible renewable energy resources by December 31, 2030, consistent with the state policy specified in Section 454.53 and Article 16 (commencing with Section 399.11) of Chapter 2.3.

(C) Enable each electrical corporation to fulfill its obligation to serve its customers at just and reasonable rates.

(D) Minimize impacts on ratepayers' bills.

(E) Ensure system and local reliability on both a near-term and long-term basis, including meeting the near-term and forecast long-term resource adequacy requirements of Section 380, and require sufficient, predictable resource procurement and development to avoid unplanned energy supply shortfalls by taking into account impacts due to climate change, forecasted levels of building and transportation electrification, and other factors that can result in those shortfalls.

(F) Comply with paragraph (1) of subdivision (b) of Section 399.13.

(G) Strengthen the diversity, sustainability, and resilience of the bulk transmission and distribution systems, and local communities.

(H) Enhance distribution systems and demand-side energy management.

(I) Minimize localized air pollutants and other greenhouse gas emissions, with early priority on disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code.

(2) (A) ~~The commission may authorize all source procurement for electrical corporations~~ load-serving entities that includes various resource types including demand-side resources, supply side resources, and resources that may be either demand-side resources or supply side resources, taking into account the differing ~~electrical corporations'~~ load-serving entities' geographic service areas, to ensure that each load-serving entity meets the goals set forth in paragraph (1).

(B) The commission may approve procurement of resource types that will reduce the overall emissions of greenhouse gases from the electricity sector and meet the other goals specified in paragraph (1), but due to the nature of the technology or fuel source may not compete favorably in price against other resources over the time period of the integrated resource plan.

(3) In furtherance of the requirements of paragraph (1), the commission shall consider the role of existing renewable generation, grid operational efficiencies, energy storage, and distributed energy resources, including energy efficiency, in helping to ensure each load-serving entity meets energy needs and reliability needs in hours to encompass the hour of peak demand of electricity, excluding demand met by variable renewable generation directly connected to a California balancing authority, as defined in Section 399.12, while reducing the need for new electricity generation resources and new transmission resources in achieving the state's energy goals at the least cost to ratepayers.

(4) Upon review of the requirements of Section 454.53 and the progress towards meeting the portfolio of resources identified in subdivision (a) of Section 454.51, the commission may direct an electrical corporation, or request the Department of Water



Resources, to procure diverse clean energy resources, as defined by the commission, that meet the portfolio of resources identified in subdivision (a) of Section 454.51.

(5) If the commission requests the Department of Water Resources to procure diverse clean energy resources pursuant to paragraph (4), the commission, in consultation with the Department of Water Resources, shall develop and adopt procedures and requirements that govern procurement by, obligations on, and recovery of costs incurred by, the Department of Water Resources and align with Division 29.5 (commencing with Section 80800) of the Water Code. The commission may review that procurement and, if approved, issue an order governing the recovery of the Department of Water Resources' costs only if both of the following conditions are satisfied:

(A) The recovery of costs to satisfy the revenue requirement of the Department of Water Resources has been found to be just and reasonable and is in the public interest.

(B) The recovery of costs through charges on customers, including, if authorized, the issuance of bonds and the material terms of those bonds, including interest rates, rating, amortization, and maturity, does not unreasonably increase costs to customers on a net present value basis compared with the procurement of diverse clean energy resources by an electrical corporation pursuant to paragraph (4).

(b) (1) Each load-serving entity shall prepare and file an integrated resource plan consistent with paragraph (2) of subdivision (a) on a time schedule directed by the commission and subject to commission review.

(2) Each electrical corporation's plan shall follow Section 454.5.

(3) The plan of a community choice aggregator shall be submitted to its governing board for approval and provided to the commission for certification, consistent with paragraph (5) of subdivision (a) of Section 366.2, and shall achieve all of the following:

(A) Economic, reliability, environmental, security, and other benefits and performance characteristics that are consistent with the goals set forth in paragraph (1) of subdivision (a).

(B) A diversified procurement portfolio consisting of both short-term and long-term electricity, electricity-related, and demand reduction products.

(C) The resource adequacy requirements established pursuant to Section 380.

(4) The plan of an electric service provider shall achieve the goals set forth in paragraph (1) of subdivision (a) through a diversified portfolio consisting of both short-term and long-term electricity, electricity-related, and demand reduction products.

(c) To the extent that additional procurement is authorized for the electrical corporation in the integrated resource plan or the procurement process authorized pursuant to Section 454.5, the commission shall ensure that the costs are allocated in a fair and equitable manner to all customers consistent with Section 454.51, that there is no cost shifting among customers of load-serving entities, and that community choice aggregators may self-provide renewable integration resources consistent with Section 454.51. The commission may order resource procurement as a result of the integrated resource planning process and shall enforce any resource procurement requirements on a nondiscriminatory basis.

(d) To eliminate redundancy and increase efficiency, the process adopted pursuant to subdivision (a) shall incorporate, and not duplicate, any other planning processes of the commission.



(e) This section applies to an electrical cooperative, as defined in Section 2776, only if the electrical cooperative has an annual electrical demand exceeding 700 gigawatthours, as determined based on a three-year average commencing with January 1, 2013.

(f) (1) The commission shall not include the energy, capacity, or any attribute from Diablo Canyon Unit 1 beyond November 1, 2024, or Unit 2 beyond August 26, 2025, in the adopted integrated resource plan portfolios, resource stacks, or preferred system plans.

(2) The commission shall disallow a load-serving entity from including in their adopted integrated resource plan any energy, capacity, or any attribute from the Diablo Canyon Unit 1 beyond November 1, 2024, or Unit 2 beyond August 26, 2025.

(g) For a thermal powerplant that uses nuclear fission technology not constructed in the twenty-first century, all resource attributes shall be retired on January 1, 2031, and shall be reported as a separate, line item resource for purposes of complying with Section 398.4.

SEC. 7. Section 454.53 of the Public Utilities Code is amended to read:

454.53. (a) It is the policy of the state that eligible renewable energy resources and zero-carbon resources supply 90 percent of all retail sales of electricity to California end-use customers by December 31, 2035, 95 percent of all retail sales of electricity to California end-use customers by December 31, 2040, 100 percent of all retail sales of electricity to California end-use customers by December 31, 2045, and 100 percent of electricity procured to serve all state agencies by December 31, 2035. The achievement of this policy for California shall not increase carbon emissions elsewhere in the western grid and shall not allow resource shuffling. The commission and Energy Commission, in consultation with the State Air Resources Board, shall take steps to ensure that a transition to a zero-carbon electric system for the State of California does not cause or contribute to greenhouse gas emissions increases elsewhere in the western grid, and is undertaken in a manner consistent with clause 3 of Section 8 of Article I of the United States Constitution. The commission, the Energy Commission, the State Air Resources Board, and all other state agencies shall incorporate this policy into all relevant planning.

(b) The commission, Energy Commission, State Air Resources Board, and all other state agencies shall ensure that actions taken in furtherance of subdivision (a) do all of the following:

(1) Maintain and protect the safety, reliable operation, and balancing of the electric system.

(2) Prevent unreasonable impacts to electricity, gas, and water customer rates and bills resulting from implementation of this section, taking into full consideration the economic and environmental costs and benefits of renewable energy and zero-carbon resources.

(3) To the extent feasible and authorized under law, lead to the adoption of policies and taking of actions in other sectors to obtain greenhouse gas emission reductions that ensure equity between other sectors and the electricity sector.

(4) Not affect in any manner the rules and requirements for the oversight of, and enforcement against, retail sellers and local publicly owned utilities pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3) and Sections 454.51, 454.52, 9621, and 9622.



(5) Not consider the energy, capacity, or any attribute from the Diablo Canyon Unit 1 or Unit 2 powerplant after August 26, 2025, in achieving the policy described in subdivision (a).

(c) Nothing in this section shall affect a retail seller's obligation to comply with the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.).

(d) The commission, Energy Commission, and State Air Resources Board shall do all of the following:

(1) Use programs authorized under existing statutes to achieve the policy described in subdivision (a).

(2) In consultation with all California balancing authorities, as defined in subdivision (d) of Section 399.12, as part of a public process, issue a joint report to the Legislature by January 1, 2021, and at least every four years thereafter. The joint report shall include all of the following:

(A) A review of the policy described in subdivision (a) focused on technologies, forecasts, then-existing transmission, and maintaining safety, environmental and public safety protection, affordability, and system and local reliability.

(B) An evaluation identifying the potential benefits and impacts on system and local reliability associated with achieving the policy described in subdivision (a).

(C) An evaluation identifying the nature of any anticipated financial costs and benefits to electric, gas, and water utilities, including customer rate impacts and benefits.

(D) The barriers to, and benefits of, achieving the policy described in subdivision (a).

(E) Alternative scenarios in which the policy described in subdivision (a) can be achieved and the estimated costs and benefits of each scenario.

(3) On or before December 1, 2023, and annually thereafter, in consultation with California balancing authorities, as defined in subdivision (d) of Section 399.12, and as part of, or an interim addendum to, the quadrennial joint report required by paragraph (2), as applicable, issue a joint reliability progress report that reviews system and local reliability within the context of the policy described in subdivision (a), with a particular focus on summer reliability. The joint reliability progress report shall identify challenges and gaps, if any, to achieving system and local reliability and identify the amount and cause of any delays to achieving compliance with all energy and capacity procurement requirements set by the commission.

(e) In a proceeding evaluating the issuance of a certificate of public convenience and necessity for a proposed transmission project, the commission shall establish a rebuttable presumption with regard to need for the proposed transmission project in favor of an Independent System Operator governing board-approved need evaluation if all of the following are satisfied:

(1) The Independent System Operator governing board has made explicit findings regarding the need for the proposed transmission project and has determined that it is the most cost-effective transmission solution.

(2) The Independent System Operator is a party to the proceeding.

(3) The Independent System Operator governing board-approved need evaluation is submitted to the commission within sufficient time to be included within the scope of the proceeding.



(4) The proposed transmission project would clearly satisfy a specific transmission expansion need identified in a decision adopted by the commission recommending resource portfolios to the Independent System Operator for transmission planning.

(5) There has been no substantial change to the scope, estimated cost, or timeline of the proposed transmission project as approved by the Independent System Operator governing board.

~~(e) Nothing in this section authorizes~~

~~(f) This section does not authorize~~ the commission to establish any requirements on a nonmobile self-cogeneration or cogeneration facility that served onsite load, or that served load pursuant to an over-the-fence arrangement if that arrangement existed on or before December 20, 1995.

~~(f)~~

(g) This section does not limit any entity, including local governments, from accelerating their achievement of the state's electric sector decarbonization targets.

SEC. 8. Section 712 of the Public Utilities Code is amended to read:

712. (a) The commission shall convene, or continue, until August 26, ~~2025~~, 2030, an independent peer review panel to conduct an independent review of enhanced seismic studies and surveys of the Diablo Canyon Units 1 and 2 powerplant, including the surrounding areas of the facility and areas of nuclear waste storage.

(b) The independent peer review panel shall contract with the Energy Commission, the California Geological Survey of the Department of Conservation, the California Coastal Commission, the Alfred E. Alquist Seismic Safety Commission, the Office of Emergency Services, and the County of San Luis Obispo to participate on the panel and provide expertise.

(c) The independent peer review panel shall review the seismic studies and hold public meetings.

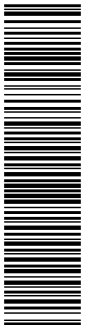
(d) The commission shall make reports by the independent peer review panel publicly available on the ~~Internet Web site~~ internet website maintained by the commission.

SEC. 9. Section 712.1 of the Public Utilities Code is amended to read:

712.1. (a) The Legislature finds and declares that in commission Decision 88-12-083 (December 19, 1988) Re Pacific Gas and Electric Company (30 CPUC.2d 189), the commission created the Independent Safety Committee for Diablo Canyon to make recommendations appropriate to enhance the safety of the operation of the Diablo Canyon powerplant.

(b) ~~The Independent Safety Committee for Diablo Canyon is hereby established in the commission and has and shall continue to have the right of the Independent Safety Committee for Diablo Canyon rights established pursuant to commission Decision 88-12-083~~ 88-12-083, as amended by Decisions 07-01-028 and 21-09-003, to conduct annual examinations of the Diablo Canyon powerplant and make additional site visits. The committee shall cease operations no sooner than when the ~~United States Nuclear Regulatory Commission operating permit for the~~ United States Nuclear Regulatory Commission operating permit for the Diablo Canyon powerplant has ceased operations and ~~when~~ all spent nuclear fuel has been moved to dry storage at the Diablo Canyon Independent Spent Fuel Storage Installation.

(c) The Independent Safety Committee for Diablo Canyon shall be composed of three experts, one each shall be appointed by the Governor, the Attorney General,



and the Chair of the Energy Commission, from a list of candidates nominated by the President of the commission that shall include not more than three qualified candidates as alternatives to the reappointment of the appointing authority's designated committee member whose term is expiring, and which shall also include the incumbent committee member if the member consents to being an additional candidate. The incumbent as of August 1, 2022, may continue to serve their current term until it expires.

(d) The commission shall ensure the funding of the Independent Safety Committee for Diablo Canyon to attract qualified experts during the period of extended operations of the Diablo Canyon powerplant, as defined by Section 712.8.

(e) In addition to the duties and responsibilities set forth in commission decisions, the Independent Safety Committee for Diablo Canyon shall do both of the following:

(1) Consult with and incorporate into its assessments and recommendations the independent peer review panel established pursuant to Section 712.

(2) Transmit annually its findings and recommendations for improved ~~safety~~ safety, and any response required pursuant to subdivision (f), to the Legislature, the Governor, the commission, the Energy Commission, the United States Nuclear Regulatory Commission, and the company licensed to operate the Diablo Canyon Units 1 and ~~2~~ 2 powerplant. The report transmitted to the Legislature shall be in accordance with Section 9795 of the Government Code.

(f) The company licensed to operate the Diablo Canyon Units 1 and 2 powerplant shall annually respond to the annual report provided for in paragraph (2) of subdivision (e) and distribute its response to the governmental entities specified in that paragraph.

SEC. 10. Section 712.8 of the Public Utilities Code is amended to read:

712.8. (a) For purposes of this section, the following definitions apply:

(1) "Current expiration dates" has the same meaning as defined in Section 25548.1 of the Public Resources Code.

(2) "Diablo Canyon powerplant operations" has the same meaning as defined in Section 25548.1 of the Public Resources Code.

(3) "Load-serving entity" has the same meaning as defined in Section 380.

(4) "Operator" has the same meaning as defined in Section 25548.1 of the Public Resources Code.

(b) (1) Ordering paragraphs (1) and (14) of commission Decision 18-01-022 (January 11, 2018) Decision Approving Retirement of Diablo Canyon Nuclear Power Plant, are hereby invalidated.

(2) The commission shall reopen commission Application 16-08-006 and take other actions as are necessary to implement this section.

(c) (1) (A) Notwithstanding any other law, within 120 days of ~~the effective date of this section, September 2, 2022,~~ the commission shall direct and authorize the operator of the Diablo Canyon Units 1 and 2 to take all actions that would be necessary to operate the powerplant beyond the current expiration dates, so as to preserve the option of extended operations, until the following retirement dates, conditional upon continued authorization to operate by the United States Nuclear Regulatory Commission:

(i) For Unit 1, October 31, 2029.

(ii) For Unit 2, October 31, 2030.

(B) If the loan provided for by Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code is terminated under that chapter, the



commission shall modify its order under this paragraph and direct an earlier retirement date.

(C) Actions taken by the operator pursuant to the commission's actions under this paragraph, including in preparation for extended operations, shall not be funded by ratepayers of any load-serving entities, but may be funded by the loan provided for by Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code or other nonratepayer funds available to the operator. The commission shall not allow the recovery from ratepayers of costs incurred by the operator to prepare for, seek, or receive any extended license to operate by the United States Nuclear Regulatory Commission.

(2) (A) No later than December 31, 2023, and notwithstanding the 180-day time limitation in subdivision ~~(b)~~ (a) of Section 25548.2 of the Public Resources Code, the commission shall direct and authorize extended operations at the Diablo Canyon powerplant until the new retirement dates specified in subparagraph (A) of paragraph ~~(1)~~ of subdivision ~~(e)~~ (1).

(B) The commission shall review the reports and recommendations of the Independent Safety Committee for Diablo Canyon described in Section 712.1. If the Independent Safety Committee for Diablo Canyon's reports or recommendations cause the commission to determine, in its discretion, that the costs of any upgrades necessary to address seismic safety or issues of deferred maintenance that may have arisen due to the expectation of the plant closing sooner are too high to justify incurring, or if the United States Nuclear Regulatory Commission's conditions of license renewal require expenditures that are too high to justify incurring, the commission may issue an order that reestablishes the current expiration dates as the retirement date, or that establishes new retirement dates that are earlier than provided in subparagraph (A) of paragraph (1), to the extent allowable under federal law, and shall provide sufficient time for orderly shutdown and authorize recovery of any outstanding uncollected costs and fees.

(C) If the loan provided for by Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code is terminated under that chapter, the commission may issue an order that reestablishes the current expiration dates as the retirement date, or that establishes new retirement dates that are earlier than provided in subparagraph (A) of paragraph (1), and shall provide sufficient time for orderly shutdown and authorize recovery of any outstanding uncollected costs and fees.

(D) If the commission determines that new renewable energy and zero-carbon resources that are adequate to substitute for the Diablo Canyon powerplant and that meet the state's planning standards for energy reliability have already been constructed and interconnected by the time of its decision, the commission may issue an order that reestablishes the current expiration dates as the retirement date, or that establishes new retirement dates that are earlier than provided in subparagraph (A) of paragraph (1), and shall provide sufficient time for orderly shutdown and authorize recovery of any outstanding uncollected costs and fees.

(E) Any retirement date established under this paragraph shall be conditioned upon continued authorization to operate by the United States Nuclear Regulatory Commission. If the United States Nuclear Regulatory Commission does not extend the current expiration dates or renews the licenses for Diablo Canyon Units 1 or 2 for a period shorter than the extended operations authorized by the commission, the



commission shall modify any orders issued under this paragraph to direct a retirement date that is the same as the United States Nuclear Regulatory Commission license expiration date.

(3) The commission shall do all things necessary and appropriate to implement this section, including, but not limited to, allocating financial responsibility for the extended operations of the Diablo Canyon powerplant to customers of all load-serving entities and ensuring completion of funding of the community impacts mitigation settlement described in Section 712.7. The commission shall not require any funds already disbursed or committed under the community impacts mitigation settlement described in Section 712.7 to be returned because of extended operations of the Diablo Canyon powerplant.

(4) Except as authorized by this section, customers of load-serving entities shall have no other financial responsibility for the costs of the extended operations of the Diablo Canyon powerplant. In no event shall load-serving entities other than the operator and their customers have any liability for the operations of the Diablo Canyon powerplant.

(5) Consistent with Section 25548.4 of the Public Resources Code, the commission shall collaborate with the Department of Water Resources to oversee the operator's actions that are funded by the loan provided for by Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code.

(d) The commission shall not increase cost recovery from ratepayers for operations and maintenance expenses incurred by the operator during the period from August 1, 2022, to November 2, ~~2025~~, 2024, for Diablo Canyon Unit 1 and from August 1, 2022, to August 26, 2025, for Diablo Canyon Unit 2, above the amounts approved in the most recent general rate case for the operator pursuant to commission proceeding A.21-06-021 (June 30, 2021) Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2023.

(e) The commission shall order the operator to track all costs associated with continued and extended operations of Diablo Canyon Units 1 and 2. The commission shall authorize the operator to establish accounts as necessary to track all costs incurred under paragraph (1) of subdivision (c), all costs incurred under the loan provided for by Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code, all costs to be borne only by the operator's ratepayers, all costs to be borne by ratepayers of all load-serving entities, consistent with this section, and any other costs as determined by the commission. Among these accounts shall be a Diablo Canyon Extended Operations liquidated damages balancing account, described in subdivisions (g) and (i).

(f) (1) Notwithstanding any approval of extended operations, the commission shall continue to authorize the operator to recover in rates all of the reasonable costs incurred to prepare for the retirement of Diablo Canyon Units 1 and 2, including any reasonable additional costs associated with decommissioning planning resulting from the license renewal applications or license renewals. The reasonable costs incurred to prepare for the retirement of Diablo Canyon Power Plant Units 1 and 2 shall be recovered on a fully nonbypassable basis from customers of all load-serving entities subject to the commission's jurisdiction in the operator's service territory, as determined by the commission, except that the reasonable additional costs associated with



decommissioning planning resulting from the license renewal applications or license renewals shall be recovered on a fully nonbypassable basis from customers of all load-serving entities subject to the commission's jurisdiction in the state.

(2) The commission shall continue to fund the employee retention program approved in Decision 18-11-024 (December 2, 2018) Decision Implementing Senate Bill 1090 and Modifying Decision 18-01-022, as modified to incorporate 2024, 2025, and additional years of extended operations, on an ongoing basis until the end of operations of both units with program costs tracked under subdivision (e) and fully recovered in rates. Any additional funding for the employee retention program beyond what was already approved in commission Decision 18-11-024 shall be submitted by the operator in an application for review by the commission.

(3) The commission shall determine the amount or allocation that the customers of all load-serving entities subject to the commission's jurisdiction shall contribute towards the reasonable additional costs of decommissioning planning resulting from the license renewal applications or license renewals and shall authorize the operator to recover in rates those costs through a nonbypassable charge applicable to the customers of all load-serving entities subject to the commission's jurisdiction in the state as set forth in paragraph (1) of subdivision (I).

(4) The commission shall authorize the operator to recover in rates all of the reasonable costs incurred to prepare for, respond to, provide information to, or otherwise participate in or engage the independent peer review panel under Section 712.

(5) In lieu of a rate-based return on investment and in acknowledgment of the greater risk of outages in an older plant that the operator could be held liable for, the commission shall authorize the operator to recover in rates a volumetric payment equal to six dollars and fifty cents (\$6.50), in 2022 dollars, for each megawatthour generated by the Diablo Canyon powerplant during the period of extended operations beyond the current expiration dates, to be borne by customers of all load-serving entities, and an additional volumetric payment equal to six dollars and fifty cents (\$6.50), in 2022 dollars, to be borne by customers in the service territory of the operator. The amount of the operating risk payment shall be adjusted annually by the commission using commission-approved escalation methodologies and adjustment factors.

(6) (A) In lieu of a rate-based return on investment and in acknowledgment of the greater risk of outages in an older plant that the operator could be held liable for, the commission shall authorize the operator to recover in rates a fixed payment of fifty million dollars (\$50,000,000), in 2022 dollars, for each unit for each year of extended operations, subject to adjustment in subparagraphs (B) to (D), inclusive. The amount of the fixed payment shall be adjusted annually by the commission using commission-approved escalation methodologies and adjustment factors.

(B) In the first year of extended operations for each unit, the operator shall continue to receive the full fixed payment during periods in which a unit is out of service due to an unplanned outage for nine months or less, and shall receive 50 percent of the payment for months in excess of nine months that a unit is down.

(C) In the second year of extended operations, the operator shall continue to receive the fixed payment during periods in which a unit is out of service due to an unplanned outage for eight months or less, and shall receive 50 percent of the payment for months in excess of eight months that a unit is down.



(D) In each subsequent year of extended operations, the period in which the full fixed payment is received during periods when a unit out of service due to an unplanned outage shall decline by one additional month.

(g) The commission shall authorize and fund as part of the charge under paragraph (1) of subdivision (I), the Diablo Canyon Extended Operations liquidated damages balancing account in the amount of twelve million five hundred thousand dollars (\$12,500,000) each month for each unit until the liquidated damages balancing account has a balance of three hundred million dollars (\$300,000,000).

(h) (1) The commission shall authorize the operator to recover all reasonable costs and expenses necessary to operate Diablo Canyon Units 1 and 2 beyond the current expiration dates, including those in subdivisions (f) and (g), net of market revenues for those operations and any production tax credits of the operator, on a forecast basis in a new proceeding structured similarly to its annual Energy Resource Recovery Account forecast proceeding with a subsequent true-up to actual costs and market revenues for the prior calendar year via an expedited Tier 3 advice letter process, provided that there shall be no further review of the reasonableness of costs incurred if actual costs are below 115 percent of the forecasted costs. All costs shall be recovered as an operating expense and shall not be eligible for inclusion in the operator's rate base.

(2) As the result of any significant one-time capital expenditures during the extended operation period, the commission may authorize, and the operator may propose, cost recovery of these expenditures as operating expenses amortized over more than one year for the purpose of reducing rate volatility, at an amortization interest rate determined by the commission. The commission shall allow cost recovery if the costs and expenses are just and reasonable. Those costs and expenses are just and reasonable if the operator's conduct is consistent with the actions that a reasonable utility would have undertaken in good faith under similar circumstances, at the relevant point in time and with information that the operator should have known at the relevant point in time.

(3) If, as a result of the annual true-up for extended operations in paragraph (1), the commission determines that market revenues for the prior year exceeded the annual costs and expenses, including those in subdivisions (f) and (g), the commission shall direct that any available surplus revenues in an account created under subdivision (e) be credited solely to customers in the operator's service territory. For customers outside the operator's service territory, market revenues may be credited up to, but not to exceed, their respective annual costs and expenses. If excess funds remain in an account created under subdivision (e) as a result of market revenues exceeding costs and expenses in the final year of the extended operating period, after truing up the final operating year's market revenues against costs and expenses, the remaining funds shall be the sole source of loan repayment per the requirements provided under Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code, except that any federal funds received as described in paragraph ~~(2)~~ (1) of subdivision ~~(b)~~ (c) of Section 25548.3 of the Public Resources Code shall also be used to repay the loan. Ratepayer funds shall not otherwise be used in any manner to repay the loan provided for under Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code.



(i) (1) During any unplanned outage periods, the commission shall authorize the operator to recover reasonable replacement power costs, if incurred, associated with Diablo Canyon powerplant operations. If the commission finds that replacement power costs incurred when a unit is out of service due to an unplanned outage are the result of a failure of the operator to meet the reasonable manager standard, then the commission shall authorize payment of the replacement power costs from the Diablo Canyon Extended Operations liquidated damages balancing account described in subdivision (g).

(2) After commencing payments from the Diablo Canyon Extended Operations liquidated damages balancing account under the conditions described in paragraph (1), the commission shall authorize the replenishment of the Diablo Canyon Extended Operations liquidated damages balancing account in the amount of twelve million five hundred thousand dollars (\$12,500,000) for each unit for each month up to a maximum account balance of three hundred million dollars (\$300,000,000).

(j) If the commission finds that the operator is requesting recovery of costs that were previously authorized by the commission or other state or federal agency or paid to the operator for cost recovery, the commission may fine the operator an amount up to three times the amount of the penalty provided in Section 2107 for each violation.

(k) If at any point during the license renewal process or extended operations period the operator believes that, as a result of an unplanned outage, an emergent operating risk, or a new compliance requirement, the cost of performing upgrades needed to continue operations of one or both units exceed the benefits to ratepayers of the continued operation of doing so, the operator shall promptly notify the commission. The commission shall promptly review and determine whether expending funds to continue operations is reasonable, will remain beneficial to ratepayers, and is in the public interest or direct the operator to cease operations. The operator shall take all actions necessary to safely operate or maintain the Diablo Canyon powerplant pending the commission determination.

(l) (1) Any costs the commission authorizes the operator to recover in rates under this section shall be recovered on a fully nonbypassable basis from customers of all load-serving entities subject to the commissions's jurisdiction, as determined by the commission, except as otherwise provided in this section. The recovery of these nonbypassable costs by the load-serving entities shall be based on each customer's gross consumption of electricity regardless of a customer's net metering status or purchase of electric energy and service from an electric service provider, community choice aggregator, or other third-party source of electric energy or electricity service.

(2) The commission shall establish mechanisms, including authorizing balancing and memorandum accounts and, as needed, agreements with, or orders with respect to, electrical corporations, community choice aggregators, and electric service providers, to ensure that the revenues received to pay a charge or cost payable pursuant to this section are recovered in rates from those entities and promptly remitted to the entity entitled to those revenues.

(m) This section does not alter the recovery of costs, including those previously approved by the commission, to operate Diablo Canyon Units 1 and 2 until the current expiration dates.

(n) The commission shall halt disbursements from the Diablo Canyon Nuclear Decommissioning Non-Qualified Trust, excluding refunds to ratepayers.



(o) The commission, in consultation with the relevant federal and state agencies and appropriate California Native American tribes, shall, in a new or existing proceeding, determine the disposition of the Diablo Canyon powerplant real property and its surrounding real properties owned by the applicable public utility or any legally related, affiliated, or associated companies, in a manner that best serves the interests of the local community, ratepayers, California Native American tribes, and the state. It is the intent of the Legislature that the existing efforts to transfer lands owned by the operator and Eureka Energy shall not be impeded by the extension of the Diablo Canyon powerplant.

(p) Except as otherwise provided in this section, this section does not alter or limit any proceeding of the commission relating to the decommissioning of the Diablo Canyon powerplant.

(q) The Legislature finds and declares that the purpose of the extension of the Diablo Canyon powerplant operations is to protect the state against significant uncertainty in future demand resulting from the state's greenhouse-gas-reduction efforts involving electrification of transportation and building energy end uses and regional climate-related weather phenomenon, and to address the risk that currently ordered procurement will be insufficient to meet this supply or that there may be delays in bringing the ordered resources online on schedule. Consequently, the continued operation of Diablo Canyon Units 1 and 2 beyond their current expiration dates shall not be factored into the analyses used by the commission or by load-serving entities not subject to the commission's jurisdiction when determining future generation and transmission needs to ensure electrical grid reliability and to meet the state's greenhouse-gas-emissions reduction goals. To the extent the commission decides to allocate any benefits or attributes from extended operations of the Diablo Canyon powerplant, the commission may consider the higher cost to customers in the operator's service area.

~~(r) Notwithstanding Section 10231.5 of the Government Code, in coordination with the Energy Commission, the Independent System Operator, and the Department of Water Resources, the commission shall submit, in accordance with Section 9795 of the Government Code, a report to the Legislature each year on the status of new resource additions and revisions to the state's electric demand forecast, and the impact of these updates on the need for keeping the Diablo Canyon powerplant online.~~

~~(s)~~

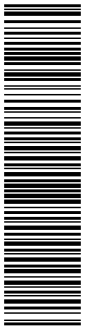
~~(r)~~ Any sale, mortgage, transfer of operational control, or any other encumbrance of disposition of the Diablo Canyon powerplant shall continue to be subject to Article 6 (commencing with Section 851).

~~(t)~~

(s) (1) The operator shall submit to the commission for its review, on an annual basis the amount of compensation earned under paragraph (5) of subdivision (f), how it was spent, and a plan for prioritizing the uses of such compensation the next year. Such compensation shall not be paid out to shareholders. Such compensation, to the extent it is not needed for Diablo Canyon, shall be spent to accelerate, or increase spending on, the following critical public purpose priorities:

(A) Accelerating customer and generator interconnections.

(B) Accelerating actions needed to bring renewable and zero-carbon energy online and modernize the electrical grid.



- (C) Accelerating building decarbonization.
- (D) Workforce and customer safety.
- (E) Communications and education.
- (F) Increasing resiliency and reducing operational and system risk.

(2) The operator shall not earn a rate of return for any of the expenditures described in paragraph (1) so that no profit shall be realized by the operator's shareholders. Neither the operator nor any of its affiliates or holding company may increase existing public earning per share guidance as a result of compensation provided under this section. The commission shall ensure no double recovery in rates.

~~(u)~~

(t) The commission shall verify at the conclusion of extended operations that the operator's sole compensation during the period of extended operations is limited to and in accordance with paragraphs (5) and (6) of subdivision (f) and shall be in lieu of a rate-based return on investment in the Diablo Canyon powerplant. Any excess funds remaining in an account created under subdivision (e) as a result of market revenues exceeding costs and expenses across the extended operating period, after truing up the final operating year's market revenues against costs and expenses, following loan repayment under paragraph (3) of subdivision (h), shall not be paid out to shareholders. Instead, such excess funds shall be returned in full to customers in a manner to be determined by the commission, except that any funds remaining in the Diablo Canyon Extended Operations liquidated damages balancing account specified in subdivisions (g) and (i), shall be returned to customers in the operator's service territory in a manner to be determined by the commission.

~~(v)~~

(u) The efforts to transfer lands owned by the operator and Eureka Energy, including North Ranch, Parcel P, South Ranch, and Wild Cherry Canyon, shall not be impeded by the extension of the operation of the Diablo Canyon powerplant.

~~(w)~~

(v) In the event of a final determination by the United States Department of Energy that the Diablo Canyon powerplant is not eligible for the Civil Nuclear Credit Program established by Section 18753 of Title 42 of the United States Code, subdivisions (d) to (m), inclusive, (p), (q), ~~(t)~~, and ~~(u)~~ (s), and (t) shall cease to be operative, and the commission shall instead undertake ordinary ratemaking with respect to the Diablo Canyon powerplant.

SEC. 11. Section 913.12 is added to the Public Utilities Code, to read:

913.12. Notwithstanding Section 10231.5 of the Government Code, in coordination with the Energy Commission, the Independent System Operator, and the Department of Water Resources, the commission shall submit a report to the Legislature each year on the status of new resource additions and revisions to the state's electric demand forecast, and the impact of these updates on the need for keeping the Diablo Canyon powerplant online.

SEC. 12. Section 80710 of the Water Code is amended to read:

80710. (a) The department, in consultation with the commission, shall implement projects, purchases, and contracts to carry out the purposes of Chapter 8.9 (commencing with Section 25790) of Division 15 of the Public Resources Code, including, but not limited to, the Distributed Electricity Backup Assets Program and the Demand Side Grid Support Program.



(b) (1) In furtherance of subdivision (a) and notwithstanding any other law, the department may construct, own and operate, or contract for the construction and operation of, contract for the purchase of electricity from, or finance through loans, reimbursement agreements, or other contracts actions to secure resources for summer reliability or to preserve the option to extend the life of only the following facilities:

(A) Extension of the operating life of existing nonnuclear generating facilities planned for retirement.

(B) New emergency and temporary power generators of five megawatts or more. If a generator is operated using diesel fuel, the department shall not operate it after July 31, 2023.

(C) New energy storage systems that are located outside of the coastal zone and the jurisdiction of the San Francisco Bay Conservation and Development Commission, of 20 megawatts or more, that are capable of discharging for at least two hours, and with an operational date no later than December 31, 2024.

(D) Generation facilities that are located outside of the coastal zone and the jurisdiction of the San Francisco Bay Conservation and Development Commission and use clean, zero-emission fuel technology of any size to produce electricity.

(E) Supporting the development of zero-emission generation capacity with a point of interconnection at a California balancing authority, with the majority of its capacity contracted for by a load-serving entity that has a service area primarily in California, with an operational date no later than December 31, 2024. For purposes of this subparagraph, only a facility with a net qualifying capacity of at least 50 percent of its nameplate capacity, as estimated at 8:00 p.m. on a date in September, shall be eligible.

(2) In furtherance of subdivision (a) of Section 80700, the department may reimburse electrical corporations, as defined in Section 218 of the Public Utilities Code, for the value of imported energy or import capacity products that was (A) delivered or capable of being delivered between July 1, 2022, and on or before September 30, 2022, and (B) was procured at above-market costs or in excess of procurement authorizations set by the Public Utilities Commission and above the requirements needed to serve its bundled customers in support of summer electric service reliability.

(c) Facilities constructed by the department or under a contract with the department pursuant to this division that use any form of fossil fuel shall only operate as necessary to respond to extreme events, as defined in subdivision (b) of Section 25790.5 of the Public Resources Code, and shall not operate at any other time.

(d) Facilities constructed by the department or under a contract with the department pursuant to this division shall not constitute State Water Resources Development System facilities under Chapter 8 (commencing with Section 12930) of Part 6 of Division 6.

(e) (1) The department shall consult with the commission, the Public Utilities Commission, the Independent System Operator or other applicable California balancing authorities, and the State Air Resources Board in carrying out the purposes of this division.

(2) Beginning October 1, 2022, and at least every three months thereafter, the department shall provide an update on the investments made and being considered into the strategic reliability reserve at a commission business meeting. The President of the



Public Utilities Commission or the president's designee and the President of the Independent System Operator or the president's designee shall attend the presentation.

(3) The department shall prioritize investments that do not compete with generating facilities already planned for development and disclosed by load-serving entities or local publicly owned electric utilities.

(4) In fulfilling the requirements of this division to achieve electricity reliability, the department shall prioritize investments in feasible, cost-effective zero-emission resources, and then feasible, cost-effective conventional resources.

(f) The department shall develop, execute, and implement contracts covering power generation, operation and maintenance, fuel management, site leases, power settlements, invoice verification, billing, and other associated items. The department shall also enter into contracts for external services to provide specialized expertise.

(g) (1) Contracts entered into pursuant to this division, amendments to those contracts during their terms, or contracts for services reasonably related to those contracts, and entered on or before December 31, 2023, shall not be subject to competitive bidding or any other state contracting requirements, shall not require the review, consent, or approval of the Department of General Services or any other state department or agency, and are not subject to the requirements of the State Contracting Manual, the Public Contract Code, or the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(2) This subdivision shall not apply to any contract, grant, or loan entered into for purposes of this chapter that does not directly contribute to electrical grid reliability by October 31, 2027.

(3) This subdivision is inoperative December 1, 2026.

(h) For contracts entered into pursuant to this division, amendments to those contracts during their terms, or contracts for services reasonably related to those contracts, and executed after December 31, 2023, Sections 10295, 10297, and 10340 of the Public Contract Code do not apply to a contract that meets the conditions established by the department for those contracts.

(i) For contracts entered into pursuant to this division by the department after October 31, 2022, the department shall notify the commission through an investment plan of the terms, costs, and scope at a commission business meeting and the commission shall consider the investment plan for approval in a meeting held consistent with the terms of Chapter 3 (commencing with Section 25200) of Division 15 of the Public Resources Code. No less than 10 days after the commission approves the ~~contract, grant, investment, or loan~~, investment plan, the executive director of the commission shall give written notice to the Joint Legislative Budget Committee of the action.

(j) A contract entered into, or an approval granted by, the department pursuant to this division is not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and regulations adopted pursuant to that act.

(k) The department may adopt guidelines to implement this division. The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) does not apply to any regulation or guidelines adopted by the department pursuant to this division.

SEC. 13. Section 80713 is added to the Water Code, to read:



80713. (a) (1) The Public Utilities Commission shall annually assess a capacity payment for the use of the Department of Water Resources Electricity Supply Reliability Reserve Fund established pursuant to Section 80720 by each load-serving entity that fails to meet its system resource adequacy requirements pursuant to Section 380 of the Public Utilities Code during any month in which resources procured using moneys from the Department of Water Resources Electricity Supply Reliability Reserve Fund were used to meet a reliability need. The purpose of the capacity payment is to replenish the Department of Water Resources Electricity Supply Reliability Reserve Fund. The capacity payment is not a penalty and does not prohibit the Public Utilities Commission from assessing a penalty on a load-serving entity for a failure to comply with any resource adequacy requirement.

(2) The capacity payment shall be remitted to the Department of Water Resources Electricity Supply Reliability Reserve Fund by a load-serving entity that fails to meet its system resource adequacy requirements within 30 days of the commission notifying the load-serving entity.

(3) Unless a different calculation methodology is specified pursuant to subdivision (b), the capacity payment for each load-serving entity shall be calculated by the Public Utilities Commission as follows:

(A) A dollar amount equal to the per kilowatt-monthly cost of the resources procured using moneys from the Department of Water Resources Electricity Supply Reliability Reserve Fund, which shall be calculated as the annual cost of the resources procured using moneys from the Department of Water Resources Electricity Supply Reliability Reserve Fund weighted such that two-thirds of that amount reflects the costs of resources procured for summer months, which includes June to September, inclusive, and one-third of that amount reflects the costs of resources procured for other months.

(B) The dollar amount calculated pursuant to subparagraph (A) shall be multiplied by the maximum difference between the load-serving entity's load and the resources it procured to meet its load during the period in which resources procured using moneys from the Department of Water Resources Electricity Supply Reliability Reserve Fund were used, as determined by the commission with input from the Independent System Operator.

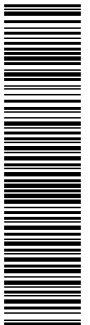
(C) Adjusted to reflect the load-serving entity's estimated load minus any reductions resulting from any resources procured using moneys from the Department of Water Resources Electricity Supply Reliability Reserve Fund.

(D) Adjusted for any resources procured by electrical corporations on behalf of, and paid for by, the load-serving entity.

(b) The Public Utilities Commission, in consultation with the commission, may modify the capacity payment calculation methodology specified in paragraph (3) of subdivision (a). Any modification made by the Public Utilities Commission shall align with any modification made by the commission as authorized by subdivision (b) of Section 80714.

SEC. 14. Section 80714 is added to the Water Code, to read:

80714. (a) (1) The executive director of the commission shall annually assess a capacity payment for the use of the Department of Water Resources Electricity Supply Reliability Reserve Fund established pursuant to Section 80720 by each local publicly owned electric utility that fails to meet its minimum planning reserve margin established



in accordance with Section 9620 of the Public Utilities Code or subdivision (b) of Section 25704.5 of the Public Resources Code, during any month in which resources procured using moneys from the Department of Water Resources Electricity Supply Reliability Reserve Fund were used to meet a reliability need.

(2) The capacity payment shall be remitted to the Department of Water Resources Electricity Supply Reliability Reserve Fund by a local publicly owned electric utility that fails to meet its minimum planning reserve margin within 30 days of the executive director notifying the local publicly owned electric utility.

(3) Unless a different calculation methodology is specified pursuant to subdivision (b), the capacity payment for each local publicly owned electric utility shall be calculated by the commission as follows:

(A) A dollar amount equal to the per kilowatt-monthly cost of the resources procured using moneys from the Department of Water Resources Electricity Supply Reliability Reserve Fund, which shall be calculated as the annual cost of the resources procured using moneys from the Department of Water Resources Electricity Supply Reliability Reserve Fund weighted such that two-thirds of that amount reflects the costs of resources procured for summer months, which includes June through September, inclusive, and one-third of that amount reflects the costs of resources procured for other months.

(B) The dollar amount calculated pursuant to subparagraph (A) shall be multiplied by the maximum difference between the local publicly owned electric utility's load and the resources it procured to meet its load during the period in which resources procured using moneys from the Department of Water Resources Electricity Supply Reliability Reserve Fund were used, as determined by the commission with input from the Independent System Operator.

(C) Adjusted to reflect the local publicly owned electric utility's estimated load minus any reductions resulting from any resources procured using moneys from the Department of Water Resources Electricity Supply Reliability Reserve Fund.

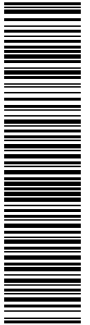
(b) The commission, in consultation with the Public Utilities Commission, may modify the capacity payment calculation methodology specified in paragraph (3) of subdivision (a). Any modification made by the commission shall align with any modification made by the Public Utilities Commission as authorized by subdivision (b) of Section 80713.

(c) The commission may adopt regulations to implement this section. In order to ensure the commission implements this section coincident with the Public Utilities Commission's implementation of Section 80713, thereby ensuring that load-serving entities and local publicly owned electric utilities are treated equally and assessed charges in a similar timeframe, the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) does not apply to any commission action to implement this section.

SEC. 15. Section 80720 of the Water Code is amended to read:

80720. (a) There is hereby established in the State Treasury the Department of Water Resources Electricity Supply Reliability Reserve Fund.

(b) Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the department, without regard to fiscal years, and shall be available for the purposes of Chapter 2 (commencing with Section 80710).



(c) Obligations authorized and expenses incurred by the department in administering this division shall be payable solely from the fund.

(d) All revenues payable to the department for activities undertaken by the department under Chapter 2 (commencing with Section 80710) or Chapter 5 (commencing with Section 80740) shall be deposited into the fund.

(e) The fund shall be separate and distinct from any other fund and moneys administered by the department and any interest earned on the moneys in the fund shall be used solely for purposes of this division.

(f) When fixed assets procured under the authority of this division are sold or otherwise disposed of, the revenue from the sale or disposition, including any gain or loss, measured by the difference between book value and selling price, shall be deposited into the fund and available to the department for purposes of Chapter 2 (commencing with Section 80710). Any remaining revenue from the sale or other disposition of fixed assets procured under the authority of this division shall be returned to the General Fund once all obligations of the department are satisfied after the wind down of this division and the closure of the fund. While any obligation of the department incurred under this division remains outstanding and not fully performed or discharged, the rights, powers, duties, and existence of the department shall not be diminished or impaired in any manner that will adversely affect the interests and rights of the holders of or parties to those obligations.

SEC. 16. Chapter 5 (commencing with Section 80740) is added to Division 29 of the Water Code, to read:

CHAPTER 5. COLLECTION AND USE OF CAPACITY PAYMENT

80740. The department shall collect any capacity payment ordered pursuant to Section 80713 or 80714. Payments received shall be deposited into the Department of Water Resources Electricity Supply Reliability Reserve Fund established pursuant to Section 80720 and shall be used solely for the purposes of this division.

SEC. 17. Division 29.5 (commencing with Section 80800) is added to the Water Code, to read:

DIVISION 29.5. CLEAN ENERGY CENTRAL PROCUREMENT

CHAPTER 1. GENERAL PROVISIONS

80800. This division does not reduce or modify an electrical corporation's obligation to serve.

80801. The commission shall issue orders it determines are necessary to carry out this division.

80802. (a) The Legislature finds and declares all of the following:

(1) California has significantly reduced the emissions of greenhouse gases from its electricity sector by fostering the development of renewable and zero-carbon energy resources through the establishment of ambitious goals and policies. These efforts have fundamentally transformed the state's portfolio of energy resources and the day-to-day operations of the state's electrical system.



(2) The state has enabled the expansion of electrical retail choice for customers served in electrical corporation service territory, bringing new market entrants and innovation to California's evolving retail electricity market.

(3) The state's electrical system also faces the risk of increased disruption due to more frequent and intense extreme weather events fueled by a rapidly changing climate.

(4) For California to achieve its long-term greenhouse gas emission reduction goals, while maintaining a reliable electrical system and providing customers with greater choice in electricity retail providers, the state must establish a new central procurement function within the department that enables the development of a more diverse portfolio of renewable and zero-carbon energy resources.

(b) In enacting this division, it is the intent of the Legislature to do all of the following:

(1) Create a central procurement function within the department that would only be exercised upon request by the commission and only if the commission finds that it is necessary to procure diverse clean energy resources beyond those procured by load-serving entities to achieve the state policy specified in Section 454.53 of the Public Utilities Code.

(2) If the department exercises its central procurement function, as described in paragraph (1), provide an opportunity for local publicly owned electric utilities to elect for the department to procure diverse clean energy resources on their behalf.

(3) Prohibit the department from selling any energy it acquires pursuant to this division at more than the department's acquisition costs, including transmission, scheduling, financing, program administration, and other related costs.

(4) Prohibit the department from pursuing procurement activities, including, if authorized, the issuance of bonds, except upon a finding from the commission that the recovery of costs through charges on customers, the issuance of bonds, and the material terms of such bonds, including interest rates, rating, amortization, and maturity, do not unreasonably increase costs to customers on a net present value basis compared with procurement of a diverse clean energy resource procured by an electrical corporation.

(5) Require the department to prioritize investments that do not compete with the procurement of diverse clean energy resources already planned for development and disclosed by load-serving entities or local publicly owned electric utilities.

80803. The development and operation of a central procurement function program as provided in this division is in all respects for the welfare and benefit of the people of the state, to protect the public peace, health, and safety, and constitutes an essential government purpose.

80804. This division shall be liberally construed in a manner so as to effectuate its purposes and objectives.

80805. (a) The powers and responsibilities of the department established pursuant to this division are separate from, and not governed by, the provisions relating to the State Water Resources Development System, including, but not limited to, those powers and responsibilities granted pursuant to Part 3 (commencing with Section 11100) of Division 6 and the California Water Resources Development Bond Act (Chapter 8 (commencing with Section 12930) of Part 6 of Division 6).



(b) The Clean Energy Central Procurement Fund established in Section 80830, and the moneys in that fund, are separate and distinct from any other fund and moneys administered by the department.

(c) This division does not subject the department to the jurisdictional authority of the Public Utilities Commission or expand the jurisdiction of the Public Utilities Commission, including that state water resources development system facilities subject to the California Water Resources Development Bond Act (Chapter 8 (commencing with Section 12930) of Part 6 of Division 6) and the department's other electrical generation projects or power contracts outside of those funded through the Clean Energy Central Procurement Fund, remain outside the jurisdiction of the commission.

80806. The department may adopt regulations for purposes of administering this division.

CHAPTER 2. DEFINITIONS

80810. For purposes of this division, the following definitions apply:

(a) "Balancing authority area" means the collection of generation, transmission, and loads within the metered boundaries of a balancing area within California. The balancing authority maintains load resource balance within this area.

(b) "Bond" means any bond, note, or other written evidence of indebtedness issued solely for purposes of supporting the Clean Energy Central Procurement Fund and other related expenses incurred by the department pursuant to this division, or for reimbursing expenditures from the fund for those purposes, establishing or maintaining reserves in connection with a bond, costs of issuance of a bond or incidental to its payment or security, capitalized interest, or renewing or refunding any bonds.

(c) "Commission" means the Public Utilities Commission.

(d) "Electrical corporation" has the same meaning as defined in Section 218 of the Public Utilities Code.

(e) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(f) "Fund" means the Clean Energy Central Procurement Fund established in Section 80830.

(g) "Independent System Operator" means the Independent System Operator described in Article 3 (commencing with Section 345) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(h) "Load-serving entity" has the same meaning as defined in Section 380 of the Public Utilities Code.

(i) "Local publicly owned electric utility" has the same meaning as defined in Section 224.3 of the Public Utilities Code.

CHAPTER 3. DEPARTMENT POWERS

80820. (a) In accordance with Sections 380, 454.51, 454.52, 454.53, and 454.54 of the Public Utilities Code, following a determination from the commission, in consultation with the Energy Commission and the Independent System Operator, that it is necessary for the department to develop and conduct one or more competitive solicitations to procure energy, capacity, ancillary services, and all associated attributes,



the department may conduct those solicitations. The purpose of these competitive solicitations is to make available to the state diverse clean energy resources that meet criteria determined by the commission, which shall include, but not be limited to, energy resources that have a first point of interconnection with the transmission grid or the distribution grid within a balancing authority area.

(b) In evaluating the bids received through the solicitation, the department shall consider all of the following:

(1) For diverse clean energy resources dependent on the development of a project, that project's viability, including, but not limited to, developer experience, developer financial strength and creditworthiness sufficient to eliminate financing contingencies, and the status of required permits and licenses.

(2) The ability to meet in-service dates offered during the solicitation and the ability to meet those in-service dates without escalation in cost.

(3) The useful life of the project.

(4) The capability to supply energy, capacity, and ancillary services at locations, times of day, and for durations that meet the state's energy resource needs, as determined by the department and the commission.

(5) Any other criteria determined by the commission or the department.

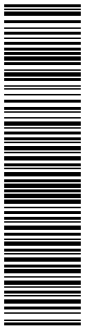
80821. (a) When conducting a procurement pursuant to Section 80820, the department shall confer with the commission and other parties, including local publicly owned electric utilities participating pursuant to Section 80822, for diverse clean energy resource procurement activities of an identified scope and duration. The department shall recover costs related to conducting the requested solicitations and all supporting work. Cost recovery may be effectuated, if determined to be appropriate by the commission, through a nonbypassable charge approval process or pursuant to Section 80822 for local publicly owned electric utilities.

(b) If cost recovery is determined through a commission proceeding, the department shall recover its costs if the commission determines those costs are just and reasonable. Those costs may include costs related to bond issuance incurred pursuant to Chapter 5 (commencing with Section 80840), costs related to contracting for diverse clean energy resources, and other costs to implement this division.

(c) If the commission determines that a nonbypassable charge necessary to fund activities conducted by the department pursuant to this division is just and reasonable, the department shall ensure it has entered into an agreement with the commission for that nonbypassable charge before it begins to incur costs related to a specific activity under this division. If the purpose of the nonbypassable charge is to recover the department's revenue requirement related to bond issuance debt service, the department shall ensure the agreement has the force and effect of an irrevocable financing order adopted in accordance with Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code or that the commission has separately issued an irrevocable financing order related to the nonbypassable charge.

(d) Any agreement between the department and the commission under this section shall provide for the administration of the nonbypassable charge, including both of the following requirements:

(1) The department shall notify the commission each year of the annual collections received by the department and the amount of any excess or deficiency in



collections above or below the revenue requirement. The commission shall adjust charges in the subsequent year to reflect that excess or deficiency.

(2) During any period, if the department forecasts that the revenue requirement for that period will not be met and that collections will not be sufficient to fund any of the amounts specified in Section 80842 or subdivision (b) of Section 80830, the department shall notify the commission in writing and the commission shall act within 60 days of receiving that notice to increase the nonbypassable charge so that the amounts collected during that period are sufficient to meet those obligations.

(e) Any agreement between the department and the commission pursuant to this section that is solely for the purpose of imposing a nonbypassable charge to recover the department's revenue requirement related to bond issuance debt service shall include a provision stating that the commission's just and reasonable determination with respect to the revenue requirement is in effect for the duration of the bond term.

80822. (a) Pursuant to Section 80820, the department may establish a schedule and mechanism for any local publicly owned electric utility to voluntarily obtain from the department energy, capacity, or ancillary services to be acquired by the department through its central procurement function on a contract-by-contract basis.

(b) In order to voluntarily participate, a local publicly owned electric utility shall commit to the imposition of a nonbypassable charge on its ratepayers sufficient at all times to fund its participation in the program and on terms and conditions as set forth in Section 80826.

80823. At the request of the department, the commission may order an electrical corporation, or its successor in the performance of a related service, to transmit or provide for the transmission of, and distribute all electricity made available by the department, and, as agent of the department, provide billing, collection, and other related services on terms and conditions that reasonably compensate the electrical corporation for its services and adequately secure payment to the department.

80824. The commission may issue rules regulating the enforcement of the agency function pursuant Section 80823 and this division, including collection of nonbypassable charges and payment into the fund on behalf of the department.

80825. (a) If the department has executed an agreement with the commission pursuant to subdivision (c) of Section 80821, the department may recover, as a revenue requirement, in the amounts and at the times necessary to enable it to comply with Section 80842, and shall advise the commission and each applicable local publicly owned electric utility, as the department determines to be appropriate and subject to the terms of the agreement.

(b) For purposes of this division and except as otherwise provided in this section, the commission's authority as set forth in Section 451 of the Public Utilities Code shall apply.

80826. (a) A local publicly owned electric utility that voluntarily participates in the department's central procurement function pursuant to Section 80822 shall enter into an agreement with the department for the revenue requirement to fund its participation and that agreement shall have the force and effect of an irrevocable financing order.

(b) The agreement shall provide for the administration of the revenue requirement, including both of the following:



(1) A requirement that the department annually notify the local publicly owned electric utility of the annual collections received by the department with respect to the revenue requirement and the amount of any excess or deficiency in collections above or below the revenue requirement. The local publicly owned electric utility shall adjust charges in the subsequent year to reflect any such excess or deficiency.

(2) During any revenue requirement period, a requirement that, if the department forecasts that the revenue requirement for that period will not be met and that collections will not be sufficient to fund any of the amounts described in Section 80842, the department notify the local publicly owned electric utility in writing and the local publicly owned electric utility shall act within 30 days of receiving that notice to increase the charge so that the amount collected during the period are sufficient to meet those obligations.

80827. All moneys collected by load-serving entities and remitted to the department for any diverse clean energy resources acquired and sold pursuant to this division, and all moneys paid directly or indirectly to or for the account of the department for any sale, exchange, transfer, or disposition of energy acquired pursuant to this division, shall be deposited into the fund in accordance with Section 80830.

80828. The department may fix and establish the procedure and charges for the sale or other disposal of energy purchased by the department.

CHAPTER 4. CLEAN ENERGY CENTRAL PROCUREMENT FUND

80830. (a) There is hereby established in the State Treasury the Clean Energy Central Procurement Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated, without regard to fiscal year, to the department and shall be available for purposes of this division.

(b) All revenues payable to the department under this division, including proceeds of bonds issued pursuant to Chapter 5 (commencing with Section 80840), shall be deposited into the fund. Notwithstanding any other law, interest accruing on the moneys in the fund shall be deposited into the fund and shall be used for purposes of this division.

(c) Payments from the fund may be made only for the following purposes:

(1) Payment of any bonds or other contractual obligations authorized by this division.

(2) The cost of energy and transmission, scheduling, and other related expenses incurred by the department.

(3) The expenses incurred by the department in administering this division, including costs of personnel, contracts, or arrangements to carry out the department's duties and responsibilities pursuant to this division.

(d) Obligations authorized pursuant to this division shall be payable solely from the fund. Neither the full faith and credit nor the taxing power of the state are, or may be, pledged for any payment under any obligation authorized by this division.

(e) While any obligations of the department incurred pursuant to this division remain outstanding and not fully performed or discharged, the rights, powers, duties, and existence of the department shall not be diminished or impaired in any manner that will adversely affect the interests and rights of the holders of, or parties to, those



obligations. The department may include this pledge and undertaking of the state in the department's obligations.

CHAPTER 5. BONDS

80840. (a) (1) If the commission requests the department to engage in central procurement activities pursuant to paragraph (5) of subdivision (a) of Section 454.52 of the Public Utilities Code, due to the timing of cost recovery processes, the department may determine that it is necessary or desirable to issue bonds to support activities for the procurement of diverse clean energy resources pursuant to this division.

(2) Upon making a determination pursuant to paragraph (1), the department may issue bonds for purposes of financing the procurement of diverse clean energy resources supporting the fund and other related expenses incurred by the department pursuant to this division, and subsequent to the department having entered into an agreement with the commission regarding a revenue requirement. Bonds shall not be issued in an amount the debt service on which, to the extent payable from the fund, is estimated by the department to exceed the amounts estimated to be available in the fund for their payment.

(b) Before the issuance of bonds in a public offering, the department shall ensure the bonds have an investment grade rating from at least one nationally recognized investment ratings firm and the document authorizing the issuance of the bonds shall provide for repayment from pledged revenues.

(c) The commission shall have an opportunity to review the trust agreement or other document pursuant to which the bonds are issued and revenues are pledged, and shall consult with the department regarding the trust agreement or other document, to ensure its consistency with the revenue requirement agreement between the department and commission.

(d) In addition to any other purposes for which bonds may be issued pursuant to this division, bonds may be issued for the following purposes:

(1) Refunding bonds to obtain a lower interest rate.

(2) Refunding bonds bearing a variable interest rate with bonds bearing interest at a fixed rate.

(3) Refunding bonds if a nationally recognized investment ratings firm reduces or withdraws, or proposes to reduce or withdraw, the rating assigned to securities that are secured by bond insurance policies, credit, or liquidity facilities issued by the provider of a bond insurance policy, or a credit or liquidity facility securing the bonds being refunded.

(4) Refunding bonds issued to preserve a federal income tax exemption or to qualify or maintain other federal income tax benefits.

80841. (a) Whenever the director determines that the issuance of bonds is necessary or desirable to accomplish the goals set forth in this division, including financing the procurement of diverse clean energy resources, the director shall issue a written determination authorizing the issuance of bonds by the department. The department, in consultation with the Department of Finance, shall notify the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees of each house of the Legislature of its written determination. The bonds shall be sold in the manner, and on the terms and conditions, specified in that determination, and



the determination may contain or authorize any other provision, condition, or limitation not inconsistent with this division and those provisions as may be deemed reasonable and proper for the security of the bondholders. Bonds may mature at the time or times, and bear interest at the rate or rates, which may be fixed or variable and be determined by reference to an index or such other method, and may be federally tax exempt, as specified in the determination. Neither the person executing the determination to issue bonds nor any person executing bonds shall be personally liable therefor or be subject to any personal liability or accountability by reason of the issuance of the bonds.

(b) In the discretion of the department, bonds may be secured by a trust agreement by and between the department and a trustee, which may be any trust company or bank having trust powers within or outside the state, or the Treasurer. Notwithstanding any other law, the Treasurer shall not be deemed to have a conflict of interest by reason of acting as the trustee. The department may enter into contracts or arrangements in connection with the issuance and sale of bonds, or with respect to any outstanding bonds for so long as those bonds remain outstanding, as it shall deem to be necessary or desirable for the issuance and further security of the bonds, including, but not limited to, credit enhancement agreements, dealer agreements, purchase contracts, escrow agreements, and similar arrangements.

(c) Bonds shall be legal investments for all trust funds, the funds of all insurance companies, savings and commercial banks, trust companies, executors, administrators, trustees, and other fiduciaries, for state school funds, pension funds, and for any funds that may be invested in county, school, or municipal bonds.

(d) Notwithstanding that bonds may be payable from a special fund, the bonds shall be deemed to be negotiable instruments for all purposes.

(e) Any bonds, and the transfer of and income derived from those bonds, shall at all times be free from taxation of every kind by the state and by the political subdivisions of the state.

(f) Bonds shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the department, or a pledge of the full faith and credit of the state or of any such political subdivision, but shall be payable solely from the revenues described in paragraph (1) of subdivision (g). All bonds shall contain a statement to the following effect: "Neither the faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of or interest on this bond." The issuance of bonds shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

(g) (1) The department may pledge and apply all or any part of revenues of any nature whatever accruing to the department, from orders issued, charges imposed, or contracts entered into pursuant to or in furtherance of this division, or the right to receive the same, to the payment or security of any or all of the principal of the bonds or the interest thereon, in the manner and upon terms that the department deems advisable.

(2) (A) It is the intent of the Legislature that any pledge of moneys, revenues, or property made by the department shall be valid and binding from the time when the pledge is made; that the moneys, revenues, or property so pledged and thereafter collected from retail end use customers, or paid directly or indirectly to or for the



account of the department, is hereby made, and shall immediately be, subject to the lien of that pledge without any physical delivery thereof or further act.

(B) It is the intent of the Legislature that the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the department irrespective of whether those parties have notice thereof, and that no resolution or instrument by which the pledge or lien created pursuant to this subdivision is expressed, confirmed, or approved need be filed or recorded in order to perfect the pledge or lien.

(C) It is the intent of the Legislature that this paragraph, in all respects, govern the creation, perfection, priority, and enforcement of any lien created pursuant to this division.

80842. (a) The department shall, and in any obligation entered into pursuant to this division may covenant to, at least annually, and more frequently as required, establish and revise revenue requirements sufficient, together with any moneys deposited into the fund, to provide all of the following:

(1) The amounts necessary to pay the principal of, and premium, if any, and interest on, all bonds as and when the same shall become due.

(2) The amounts necessary to pay for electricity purchased by it and to deliver it to purchasers, including the cost of electricity, transmission, scheduling, and other related expenses incurred by the department, or to make payments under any other contracts, agreements, or obligations entered into by it pursuant to this division, in the amounts and at the times the same shall become due.

(3) Reserves in amount as may be determined by the department from time to time to be necessary or desirable.

(4) The pooled money investment rate on funds advanced for electricity purchases before the receipt of payment for those purchases by the purchasing entity.

(5) The administrative costs of the department and other state agencies, including the costs and fees for professional services, bond issuance and sale, and other miscellaneous costs, incurred in connection with the issuance of bonds or the administration of this division.

(b) The department shall notify the commission of its revenue requirement pursuant to the agreement required pursuant to Section 80821 and that revenue requirement shall be satisfied by the recovery of its costs through a nonbypassable charge.

SEC. 18. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances impacting the Diablo Canyon powerplant, as described in Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code.

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



SEC. 20. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

- 0 -

SECURED
COPY



230989472293BILL

LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: Energy.

(1) Existing law creates the Demand Side Grid Support Program, and requires the State Energy Resources Conservation and Development Commission (Energy Commission) to implement and administer the program to incentivize dispatchable customer load reduction and backup generation operation as on-call emergency supply and load reduction for the state's electrical grid during extreme events. Existing law requires entities with generation or load reduction assets that are incentivized pursuant to the Distributed Electricity Backup Assets Program to participate in the program, and requires all energy produced as a result of the program to be settled at a relevant reference energy price.

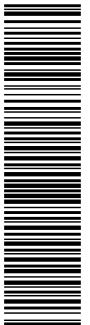
This bill would delete the requirements that those entities participate in the program and the produced energy be settled at a relevant reference energy price.

(2) Existing law requires the Public Utilities Commission (PUC) to identify a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy in a cost-effective manner. Existing law requires the PUC to adopt a process for each load-serving entity, as defined, to file an integrated resource plan and a schedule for periodic updates to the plan, and to ensure that load-serving entities meet other specified requirements.

This bill would require that the portfolio of resources ensure a reliable electricity supply that also provides optimal integration of resource diversity in a cost-effective manner, as specified. The bill would authorize the PUC to direct an electrical corporation, and request the Department of Water Resources, to procure diverse clean energy resources, as defined by the PUC, that satisfy the portfolio of resources, as specified. The bill would authorize the PUC to order resource procurement as a result of the integrated resource planning process and require the PUC to enforce any resource procurement requirements on a nondiscriminatory basis.

(3) Existing law prohibits an electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the PUC a certificate that the present or future public convenience and necessity require or will require that construction. Under existing law, the extension, expansion, upgrade, or other modification of an existing electrical transmission facility, including transmission lines and substations, does not require a certificate that the present or future public convenience and necessity requires or will require its construction.

This bill would require the PUC, in a proceeding evaluating the issuance of a certificate of public convenience and necessity for a proposed transmission project, to establish a rebuttable presumption with regard to need for the proposed transmission project in favor of an Independent System Operator governing board-approved need evaluation if specified requirements are satisfied.



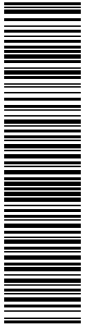
(4) Existing law requires the PUC to convene or continue, until August 26, 2025, an independent peer review panel to conduct an independent review of enhanced seismic studies and surveys of the Diablo Canyon Units 1 and 2 powerplant, as specified. Existing law also establishes the Independent Safety Committee for Diablo Canyon until, at least, the United States Nuclear Regulatory Commission operating permit for the Diablo Canyon powerplant has ceased.

This bill would extend that requirement on the PUC until August 26, 2030. The bill would require that the Independent Safety Committee for Diablo Canyon continue until the Diablo Canyon powerplant has ceased operations and make other changes related to that committee.

(5) Existing law establishes the Department of Water Resources Electricity Supply Reliability Reserve Fund and continuously appropriates moneys in the fund to the department for purposes of implementing projects, purchases, and contracts to carry out specified purposes, including, but not limited to, the Distributed Electricity Backup Assets Program and the Demand Side Grid Support Program.

This bill would require the PUC to annually assess a capacity payment for the use of the fund by each load-serving entity that fails to meet its system resource adequacy requirements during a month in which resources procured using moneys from the fund were used to meet a reliability need. The bill would require the executive director of the Energy Commission to annually assess a capacity payment for the use of the fund by each local publicly owned electric utility that fails to meet its minimum planning reserve margin during a month in which resources procured using moneys from the fund were used to meet a reliability need, and authorize the Energy Commission to adopt regulations for this purpose, as specified. The bill would require the department to collect any capacity payment ordered pursuant to those requirements and to deposit those payments into the fund, thereby making an appropriation.

This bill would authorize the department, following a determination from the PUC, in consultation with the Energy Commission and the Independent System Operator, that it is necessary for the department to develop and conduct one or more competitive solicitations to procure energy, capacity, ancillary services, and all associated attributes, to conduct those solicitations, as specified. The bill would authorize the department to establish a schedule and mechanism for any local publicly owned electric utility to voluntarily obtain from the department energy, capacity, or ancillary services to be acquired by the department through its central procurement function on a contract-by-contract basis. At the request of the department, the bill would authorize the PUC to order an electrical corporation to provide for the transmission of and distribute all electricity made available by the department, and, as an agent of the department, to provide billing, collection, and other related services on terms and conditions that reasonably compensate the electrical corporation for its services and adequately secure payment to the department. The bill would establish the Clean Energy Central Procurement Fund and continuously appropriate moneys in the fund to the department for specified purposes. By establishing a continuously appropriated fund, the bill would make an appropriation. The bill would require that all moneys collected by load-serving entities and remitted to the department with respect to certain diverse clean energy resources, and all moneys paid directly or indirectly to the department with respect to the sale, exchange, transfer, or disposition of certain energy, be deposited into the fund. The bill would authorize the department,



upon determining that it is necessary or desirable to issue bonds to support activities for the procurement of diverse clean energy resources, to issue bonds for purposes of, among other things, financing the procurement of diverse clean energy resources supporting the fund and other related expenses incurred by the department, as specified. The bill would authorize the department to adopt regulations for purposes of administering these provisions.

(6) This bill would make legislative findings and declarations as to the necessity of a special statute for the Diablo Canyon powerplant.

(7) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because certain of the above provisions would be part of the act and a violation of a PUC action implementing this bill's requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(8) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

